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**Introduced by Senator Ortiz**

February 22, 2005

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An act to amend Section 415.50 of the Code of Civil Procedure, relating to service by publication.

## LEGISLATIVE COUNSEL'S DIGEST

SB 815, as introduced, Ortiz. Civil procedure: service by publication.

Existing law provides for the service of a summons by publication under specified circumstances.

This bill would make a technical, nonsubstantive change in that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 415.50 of the Code of Civil Procedure is  
2 amended to read:  
3 415.50. (a) A summons may be served by publication if upon  
4 affidavit it appears to the satisfaction of the court in which the  
5 action is pending that the party to be served cannot with  
6 reasonable diligence be served in another manner specified in  
7 this article and that either:  
8 (1) A cause of action exists against the party upon whom  
9 service is to be made or he or she is a necessary or proper party  
10 to the action.  
11 (2) The party to be served has or claims an interest in real or  
12 personal property in this state that is subject to the jurisdiction of

1 the court or the relief demanded in the action consists wholly or  
2 in part in excluding the party from any interest in the property.

3 (b) The court shall order the summons to be published in a  
4 named newspaper, published in this state, that is most likely to  
5 give actual notice to the party to be served. If the party to be  
6 served resides or is located out of this state, the court may also  
7 order the summons to be published in a named newspaper  
8 outside this state that is most likely to give actual notice to that  
9 party. The order shall direct that a copy of the summons, the  
10 complaint, and the order for publication be forthwith mailed to  
11 the party if his or her address is ascertained before expiration of  
12 the time prescribed for publication of the summons. Except as  
13 otherwise provided by statute, the publication shall be made as  
14 provided by Section 6064 of the Government Code unless the  
15 court, in its discretion, orders publication for a longer period.

16 (c) Service of a summons ~~in this manner~~ *by publication* is  
17 deemed complete as provided in Section 6064 of the Government  
18 Code.

19 (d) Notwithstanding an order for publication of the summons,  
20 a summons may be served in another manner authorized by this  
21 chapter, in which event the service shall supersede any published  
22 summons.

23 (e) As a condition of establishing that the party to be served  
24 cannot with reasonable diligence be served in another manner  
25 specified in this article, the court may not require that a search be  
26 conducted of public databases where access by a registered  
27 process server to residential addresses is prohibited by law or by  
28 published policy of the agency providing the database, including,  
29 but not limited to, voter registration rolls and records of the  
30 Department of Motor Vehicles.